

Exhibit 2

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
3 - - -
4 MONIQUE RUSSELL, :
5 JASMINE RIGGINS, :
6 ELSA M. POWELL, and :
7 DESIRE EVANS, :
8 Plaintiffs, : Civil Action No.
9 : 18-5629
10 v. :
11 : Honorable
12 EDUCATIONAL : Joshua D. Wolson
13 COMMISSION FOR :
14 FOREIGN MEDICAL :
15 GRADUATES, :
16 Defendant. :

October 10, 2019

Videotaped deposition of
ANNIE G. STEINBERG, M.D., taken pursuant
to notice, was held at The Bridge, 31
North Narberth Avenue, Narberth,
Pennsylvania 19072, beginning at 9:42
a.m., on the above date, before Kristy L.
Liedtka, a Professional Court Reporter
and Notary Public in and for the
Commonwealth of Pennsylvania.

23 GOLKOW LITIGATION SERVICES
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24 deps@golkow.com

1 pull them and take a look at them --

2 A. Sure.

3 Q. -- would I be able to see
4 that you did a questionnaire or a survey
5 like you did in this case?

6 A. Sure. Let me see. So

7 qualitative health research was --

8 Q. Which one? Let's make sure
9 I can find the one you're talking about.

10 A. The fifth down was one of my
11 earlier pieces.

12 Q. From 1997?

13 A. Yeah, that was an early
14 qualitative.

15 Q. So was that a population
16 identified like this that was
17 predetermined and then you drafted a
18 survey to survey them?

19 A. Uh-huh.

20 Q. That's a yes?

21 A. That was not a survey. That
22 was an interview study.

23 Q. So that was in-person
24 interviews?

1 A. Yes.

2 Q. So I'm talking about --

3 A. I might have had --

4 Q. -- surveys?

5 A. -- a questionnaire. I don't
6 remember. The next one --

7 Q. And, Dr. Steinberg, I
8 appreciate your help today, but can you
9 let me finish my questions --

10 A. Sure.

11 Q. -- and I'll let you finish
12 your answers?

13 A. Uh-huh.

14 Q. Great. So that one was
15 interview studies in-person. So I'm not
16 talking about the in-person interviews --

17 A. Uh-huh.

18 Q. -- because I'm sure in your
19 line of work you've interviewed a lot of
20 people in person. I'm talking
21 specifically about the surveys or the
22 questionnaires.

23 A. The DIS study was
24 essentially a survey, not in-person,

1 because we used interactive video.

2 Q. And which one is that?

3 A. That's the American Journal
4 of Psychiatry, I believe. I can't
5 remember these very well. It was 1998.
6 But --

7 Q. Okay. So you think that one
8 was a survey like you -- or a
9 questionnaire like you sent out in this
10 case to a defined population of patients?

11 MR. CERYES: Objection to
12 form and foundation.

13 You can answer.

14 THE WITNESS: I think it was
15 a video survey, if I recall.

16 BY MS. McENROE:

17 Q. So those would be video
18 interviews you're saying?

19 A. I -- I don't remember,
20 honestly.

21 Q. Okay.

22 A. So I better not say.

23 The next one down is also an
24 interview survey.

1 Q. Right. So I'm sure you did
2 a lot of interview surveys, but taking a
3 look through these, if there are any that
4 were not interview surveys, that were
5 more traditional surveys in the way that
6 you provided today for this case?

7 A. Well, let's see. I
8 believe -- I honestly don't remember.
9 Isn't that terrible? Let's see. All
10 of -- all of these things involved
11 interviews and questionnaire development,
12 whether the questionnaire was
13 administered in an interview format or
14 not. It's just pretty much everything,
15 deaf woman, ah, here's one that was a
16 survey. This one made JAMA. That's my
17 best journal. That is page 15, second
18 down.

19 Q. Yep. 2003?

20 A. That was a survey
21 administered to medical faculty that
22 related to their experiences in the
23 academic environment, and JAMA thought it
24 was good enough, I guess, so that's good.

1 Q. Yep. And were there
2 interviews in conjunction with those
3 surveys?

4 A. No, I don't believe there
5 were. Uh-uh.

6 Q. Okay. Any others?

7 A. I believe some of the
8 parental decision-making that followed it
9 on the next page.

10 Q. The next page, so page 16?

11 A. No, following immediately
12 that JAMA article. The Archives of
13 Pediatric and Adolescent Medicine --

14 Q. Yeah.

15 A. -- I believe that was a
16 survey.

17 Q. With interviews?

18 A. But I -- it may have had
19 interviews. I'm -- I'm really not
20 remembering.

21 Q. Okay. Any others?

22 A. Honestly, I cannot recall.

23 There are many studies that look the same
24 to me now. Some on genetic testing,

1 claims had to be excluded. And so we
2 trained, oh, maybe 30 interviewers,
3 something like that, and then I sort of
4 managed oversight of those interviewers.
5 Did -- listened in on their tapes, gave
6 them feedback for future interviews and
7 basically did sort of quality control on
8 the interview process, what they were --
9 how they were facilitating the interview,
10 tried to keep it to the integrity of the
11 actual questionnaire or interview, if you
12 will. So basically administered --
13 administered questionnaire.

14 Q. So the questionnaire that we
15 were just discussing in the second case
16 wasn't sort of like it was disseminated
17 here by email, it was administered
18 through an interview process?

19 A. Yes. Uh-huh.

20 Q. Okay. And you mentioned
21 that in this case with the OB/GYN, that
22 it went from approximately 13,000
23 patients to about 9,000 patients because
24 there were some fraudulent claims; is

1 that correct?

2 A. Or people didn't follow
3 through with it. One or the other.

4 Q. What do you mean by
5 "fraudulent claims"?

6 A. Oh, well, when you have
7 these sorts of class actions, mass torts,
8 mass tort claims, a number of people find
9 their way to this information, might live
10 in Alabama, Texas and claim that they
11 were patients of this physician.

12 Q. And what was the third of
13 the case settlements you were mentioning
14 before?

15 A. The third one involved a
16 rabbi and the rabbi was in charge of --
17 it's called a mikvah. It's sort of a
18 ceremonial religious immersion. That
19 women go into this cleansing ritual once
20 a month after their period is finished or
21 before they get married or at other vital
22 times where they want to be purified.
23 And the rabbi had set up video equipment.
24 So that was a -- like the second case I

1 mentioned where the women were unaware
2 that they were videotaped until later; in
3 this case the women were also unaware at
4 the time and the damages occurred when
5 they found out.

6 Q. And was that a
7 self-administered questionnaire? Was
8 that an interview?

9 A. That was a self-administered
10 questionnaire, yes.

11 Q. Were there interviews in
12 conjunction with those questionnaires?

13 A. There were not. Uh-uh.

14 Q. And approximately how large
15 was that patient pop -- I'm sorry,
16 that --

17 A. It was hundreds.

18 Q. -- victim population?

19 A. Hundreds. Not thousands. I
20 forgot the exact number.

21 Q. Did you design that
22 questionnaire?

23 A. I did.

24 Q. And did you administer that

1 questionnaire?

2 A. That was a comp --

3 Q. Did you -- were you involved
4 in sending it out?

5 A. It was a computer.

6 Q. Okay. Were you seeking
7 information on emotional damages through
8 that questionnaire?

9 A. I was. Uh-huh.

10 Q. When was that?

11 A. That was over the past year,
12 maybe 15, 18 months at the most. It was
13 about a year process. Finished up a few
14 little straggler cases in the last couple
15 of months.

16 Q. So for any of these cases
17 you mentioned or any of the other cases
18 you recall working on, had you ever
19 worked with plaintiffs' counsel involved
20 in this case before?

21 A. They were involved in -- and
22 I -- they were involved in the second
23 case. They retained me in the second
24 case. That's the only case in which they

1 can get a tremendous amount of
2 information from each one.

3 BY MS. McENROE:

4 Q. What are the differences?

5 MR. CERYES: Same objection.

6 THE WITNESS: It probably
7 varies person to person more than
8 anything. With studies in which
9 aren't really clinical work, in
10 which I do both, the surveys are
11 nicer because you can make sure
12 you don't miss any areas. If
13 you're just doing an interview,
14 you can't remember everything to
15 ask, but if you use inventories,
16 anxiety, depression,
17 post-traumatic stress, you can
18 cover a lot of ground in a short
19 amount of time and uncover areas
20 that you might not otherwise have
21 remembered to ask about or that
22 somebody face-to-face will not
23 say.

24 BY MS. McENROE:

1 Q. You mean using a diagnostic
2 tool?

3 A. Using an -- using a
4 questionnaire or a survey --

5 Q. Okay.

6 A. -- as you call it.

7 Q. Okay. But is -- but I'm
8 trying to figure out if there's a
9 distinction in your mind between the more
10 canned, if you will, or standardized
11 diagnostic tools or questionnaires as
12 opposed to a survey --

13 A. Surveys.

14 Q. -- like the one designed in
15 this case?

16 A. You know --

17 MR. CERYES: Objection.

18 Form and foundation.

19 THE WITNESS: You know, I --
20 I no longer am certain. I would
21 have always wanted to do an
22 interview in -- in the past, but
23 in the recent case I did involving
24 the rabbi, for example, the

1 lawyers were quite vehemently
2 opposed to an interview and only
3 wanted me to do -- develop a
4 questionnaire and administer it
5 through the computer.

6 I thought it would be a
7 shortcoming, but in fact, there
8 was a tremendous amount of
9 information that women poured into
10 their responses. So I really have
11 come to understand that when
12 people are motivated to express
13 themselves, they will use whatever
14 modality is available to them to
15 communicate their experiences.

16 BY MS. McENROE:

17 Q. In that rabbi case, did you
18 view yourself as diagnosing anyone
19 through those questionnaires?

20 A. We did ask about symptoms of
21 depression, anxiety and post-traumatic
22 stress, but of course I would never
23 diagnose somebody on the basis of a
24 response to a questionnaire.

1 Q. Is that true in this case as
2 well, that you would not consider
3 yourself as diagnosing any of these
4 individuals?

5 A. It was never my intention to
6 present psychiatric diagnoses of any
7 individual woman in this matter.

8 Q. Okay. Individually or as a
9 group? You haven't diagnosed them as a
10 whole?

11 A. Correct.

12 Q. Okay.

13 A. I would not --

14 Q. And you're --

15 A. I would not --

16 Q. You're laughing a little,
17 but can you explain what you mean by
18 that? Would you be able to diagnose a
19 group as a whole?

20 A. No, a psychiatric diagnosis
21 is administered individually, but I would
22 not fathom a group diagnosis, no.

23 Q. Okay.

24 A. Group psychiatric diagnosis.

1 Q. We discussed a little bit
2 earlier some of your experience of
3 designing and administering surveys and
4 some of your prior professional
5 experiences. Can you articulate for us
6 the principles that govern the sound
7 survey design?

8 MR. CERYES: Objection to
9 the breadth of the question.

10 You can answer.

11 THE WITNESS: I don't know
12 that that -- you know, that I can
13 profess to give you a lecture on
14 sound survey design. I just can
15 tell you that I studied it like --
16 like if you asked me, you know,
17 the basis for a psychiatric
18 interview, I suppose because I'm a
19 forensic psychiatrist I would have
20 to be able to provide that for
21 you, but I don't have any degrees
22 in survey design and I don't know
23 that I would want to make a feeble
24 effort at articulating that for

1 you. I -- I only know that I've
2 studied it and that I've learned
3 from smart people and someplace
4 it's in the soup. You know, it's
5 mixed in the -- it's in the blend
6 of what I have come to understand
7 and to have learned from very good
8 teachers.

9 BY MS. McENROE:

10 Q. So what is it that you
11 learned from the smart people about
12 governing surveys?

13 A. That question --

14 MR. CERYES: Same objection.
15 You can answer.

16 THE WITNESS: That questions
17 need to be written as open-ended
18 as possible and not directing
19 people, but that choices do need
20 to be given for those people who
21 may not be able to retrieve words
22 or descriptors.

23 BY MS. McENROE:

24 Q. Anything else?

1 MR. CERYES: Same objection.

2 THE WITNESS: That you open
3 gently and you proceed with
4 respect and caution and
5 thoughtfulness.

6 BY MS. McENROE:

7 Q. Anything else?

8 A. And in this case --

9 MR. CERYES: Same objection.

10 THE WITNESS: Sorry.

11 And in this case, that I
12 don't extend beyond my domain.

13 BY MS. McENROE:

14 Q. What do you mean by that?

15 A. If my domain is psychiatry,
16 then the questions I ask should not be
17 about obstetrics or gynecology beyond --
18 beyond common sense.

19 Q. You don't think that your
20 questions in the questionnaire in this
21 case had anything to do with obstetrics
22 or gynecology?

23 A. I said beyond the common
24 understanding of general practice and

1 demeanor --

2 Q. Okay.

3 A. -- of a physician.

4 Q. Anything else?

5 A. No, I think that's probably
6 all I would say for now.

7 Q. Did you sort -- I'm sorry,
8 strike that.

9 Did you cite any sources in
10 ensuring that you were preparing a sound
11 survey in this case?

12 A. I'm sorry, I don't
13 understand your question. Did I cite?

14 Q. Did you consult with
15 literature on surveys or those types of
16 issues and how to design a survey in
17 preparing the one that you did for this
18 case?

19 A. No, I don't think I did.

20 Uh-uh.

21 Q. You worked with others in
22 doing the project for this case --

23 A. Uh-huh.

24 Q. -- is that correct?

1 A. Correct. Uh-huh.

2 Q. So I have Lisa Bain and
3 Stephen Ehrlich; is that correct?

4 A. Yes.

5 Q. Anybody else?

6 A. That's it.

7 Q. Okay. So Lisa Bain --

8 A. Uh-huh.

9 Q. -- in your report you wrote
10 that she's a science writer and her
11 hourly rate is \$125 per hour. She worked
12 25 hours on the development of this
13 assessment tool and her data analysis.

14 Does that sound right?

15 A. Yes. Uh-huh.

16 Q. What do you mean by her
17 development -- or I should -- strike
18 that.

19 What do you mean by "the
20 development of this assessment tool"?

21 A. I considered Lisa Bain to be
22 a fantastic extender for me. She worked
23 with me over many years as the program
24 manager for those other grants involving

1 questionnaires and interviews. So we
2 work fairly seamlessly together and she's
3 an excellent writer, so she can edit me,
4 I can edit her and we can go back and
5 forth and discuss ways to phrase
6 questions about dates of birth versus age
7 versus -- you know, and what -- how we
8 can capture the information in the best
9 way.

10 Q. What is her educational
11 background?

12 A. She has I believe a master's
13 degree in science writing.

14 Q. Do you know if she has any
15 degrees in marketing or surveys?

16 A. No, I don't believe she
17 does.

18 Q. Was she involved in any of
19 those other cases you mentioned, the
20 pediatrician, the OB/GYN with the
21 videotape and -- or the rabbi with the
22 videotape?

23 A. She was definitely involved
24 in the OB/GYN. And let me just think.

1 She was definitely involved in the rabbi
2 case too. I don't think she was involved
3 in the pediatrician case.

4 Q. And when you say she was
5 involved, in a similar way to her
6 involvement in this case?

7 A. Yes. She did more -- she
8 spent a tremendous amount of time
9 listening to the interviews that the
10 trainees, most of them were like
11 psychologists or psych -- psychology
12 interns, people who have already finished
13 some of their psychology training, that
14 they -- that they were doing -- not live,
15 she would listen to them after and then
16 give them feedback or give me feedback
17 and we'd give feedback together to the
18 interviewer about how the -- those
19 interviews were going.

20 Q. Did she help to design any
21 questions or questionnaires involved in
22 the OB/GYN or the rabbi case?

23 A. No, I believe for -- I
24 worked with -- in those I worked with

1 Girija Kaimal, who is -- she might be an
2 anthropologist. I forget what her --
3 she's a professor at Drexel and -- so she
4 helped with the methodology. And I also
5 worked with Elizabeth Hembree, who's a
6 researcher at Penn on those
7 questionnaires.

8 Q. Why didn't you work with
9 them in this case?

10 A. Because I used the same
11 methodology and versions of the same
12 questionnaire and I felt very comfortable
13 with what we had developed before and
14 this was an adaptation of that.

15 Q. Did they review the
16 questionnaire in this case?

17 A. No. Uh-uh.

18 Q. Did you discuss this case
19 with either of them?

20 A. No.

21 Q. For Lisa Bain, when you say
22 that she did data analysis, what do you
23 mean about that?

24 A. I mean she and I both

1 reviewed all the computerized data that
2 you have on the 300 and some -- 305
3 women, and that was a lot of work, as you
4 may know. So we both did it and then we
5 talked about it a number of times and
6 discussed what trends we were seeing and
7 what could be said. Really just a -- I
8 always need somebody to -- to work with
9 to bounce off the ideas, make sure that I
10 am perceiving things correctly. And then
11 we discussed how we would write up the
12 synthesis or summary of what was
13 discussed and we shared back and forth in
14 that process.

15 Q. When you say that you were
16 reviewing the computerized data, in what
17 format were you doing that?

18 A. On the laptop.

19 Q. And was that provided to you
20 in Excel form or how did you get it?

21 A. Same as you. It was in
22 individual -- you know, you would have to
23 open individual files to review. And
24 ultimately we did create spreadsheets and

1 so on and so forth and then fancy pie
2 charts and so on were derived from the
3 data.

4 Q. Did you create spreadsheets
5 on each of the questions?

6 A. No, I don't think we did. I
7 think we had -- we had spreadsheets on
8 the summary statements. We developed in
9 the end some spreadsheets on those and
10 then I think we asked Stephen particular
11 questions and to -- we had different
12 versions and formats of looking at that
13 to -- in a way that would be visually
14 understandable to other people and
15 decided on sort of pie chart
16 configurations this time.

17 Q. And do you have --

18 MR. CERYES: Just jump in
19 here for a second. I think we're
20 getting close to what would
21 constitute attorney work product
22 in terms of communications that
23 Dr. Steinberg had with other
24 consultants of ours in this case.

1 And so -- and I agree you're
2 entitled to any facts and data
3 that Dr. Steinberg considered,
4 but, you know, I would object and
5 instruct Dr. Steinberg not to go
6 beyond that in terms of
7 discussions and communications
8 that she has had with Stephen
9 Ehrlich and Lisa Bain. And move
10 to strike to the extent that we've
11 gotten into that already, but with
12 that objection we can proceed.

13 MS. McENROE: So I disagree.

14 BY MS. McENROE:

15 Q. I mean, Lisa is not an
16 attorney, I presume?

17 A. Uh-uh.

18 Q. She's not a --

19 A. No.

20 Q. Okay. And Stephen Ehrlich
21 is not an attorney?

22 A. No.

23 Q. And they were both hired to
24 help assist you in your work in this

1 case?

2 A. Well, I identified them, but
3 I believe they were hired by the
4 attorney.

5 Q. Right. But they did assist
6 you with your work in this case?

7 A. They did. Uh-huh.

8 Q. Okay.

9 MS. MCENROE: And I'm glad
10 that you, counsel, agree that
11 we're entitled to the data. So I
12 would ask that we work out that we
13 can get all of that data after
14 this -- after the deposition is
15 done. We've only gotten the raw
16 versions of the survey responses
17 and the empty survey Word
18 document, but other than that, to
19 the extent that there's other data
20 that exists, we would request that
21 we get that.

22 MR. CERYES: Right. And you
23 have all of the data that was
24 compiled on these individuals. To

1 the extent that there were other
2 drafts in terms of their
3 presentation of collections of
4 those data or statistics regarding
5 those data, our position would be
6 that that would constitute
7 attorney work product and draft
8 versions of the reports, which
9 would similarly not be
10 discoverable.

11 MS. McENROE: Well, let's
12 talk about it after --

13 MR. CERYES: Sure.

14 MS. McENROE: -- the
15 deposition or we can I'm sure
16 write each other letters about it,
17 but we disagree.

18 BY MS. McENROE:

19 Q. So Stephen Ehrlich, have you
20 worked with him before?

21 A. Uh-huh. Yes.

22 Q. Okay. And in your report
23 you wrote that he's an information
24 technology consultant, correct?

1 A. Yes. Uh-huh.

2 Q. So just in plain words
3 basically what did he do to help in this
4 case?

5 A. So Stephen set up a website,
6 a confidential website that would be
7 secure and created the technology for
8 allowing women to enter that secure site
9 with an ID and -- so that we would not
10 have their names, that they would be
11 anonymized for us. That they would be an
12 ID number as opposed to a name. And he
13 also created the technology so that the
14 written questionnaire that we had could
15 be put into a computer form and to design
16 it so that it would be visually
17 accessible to women, that they would not
18 be intimidated by it, that it would flow
19 and they continue -- complete the
20 questionnaire, which is not a small feat.
21 And then Stephen also created a mode for
22 us to gain access with our own specific
23 passwords so that we could follow daily,
24 hourly sometimes, how many women had

1 completed, what they had written, and
2 then later he helped us to compile the
3 data in a way that was easier for us to
4 see the different responses. Their ages,
5 their -- how long they had known Dr.
6 Akoda, under what circumstance they had
7 come to him and so on.

8 Q. Have you seen what the
9 survey looked like when it was on the
10 website?

11 A. Yes.

12 Q. Okay. So you've seen what
13 the user experience was like?

14 A. Yes, uh-huh.

15 Q. Did you have any say or
16 input into figuring out or deciding how
17 that would appear?

18 A. Totally.

19 Q. Okay. And so describe to me
20 when someone would log in using their
21 user ID what they would see next.

22 A. Let me see if I have it.

23 They would see an introduction and then
24 they would see the first question and --

1 and so on. I don't remember how many
2 questions per screen they had.

3 Q. Well, that's what I was
4 going to ask. Was it a choose your own
5 adventure? Right? If you said yes to
6 one and then it said to skip to the next
7 question, would it automatically do that
8 for you?

9 A. There were a couple of --
10 two or maybe three questions at the most
11 where we decided if they said no to
12 something, that it would automatically
13 move them to the next, but typically
14 we -- most of the questionnaire was
15 complete everything.

16 Q. But were they automatically
17 moved to the next if that was what their
18 response had prescribed for in those
19 circumstances or was it a circumstance
20 that they could have responded even for
21 the other questions that they were sort
22 of then not eligible for or that didn't
23 make sense for them to answer?

24 A. I'm trying to remember the

1 A. Correct.

2 Q. -- say back?

3 A. I think he smirked.

4 Q. Okay. So that was a
5 nonresponse response?

6 A. Yes.

7 Q. Is he being compensated for
8 his time in --

9 A. No --

10 Q. -- connection with this
11 case?

12 A. -- he's not.

13 Q. Who first contacted you in
14 connection with this litigation?

15 A. I believe it was Mr. Ceryes.

16 Q. Okay. And when was that?

17 A. In September.

18 Q. Of 2019?

19 A. Yes.

20 Q. Would September 4th sound
21 about right?

22 A. 3rd, 4th, something around
23 there.

24 Q. In or around that time. And

1 then the report you produced was dated
2 September 23rd, correct?

3 A. Yes.

4 Q. So in between September 3rd
5 or 4th and September 23rd, is it correct
6 that you designed, administered and then
7 digested the outcome from the
8 questionnaire in this case?

9 A. Are you going to ask me if
10 I've slept during that time?

11 Q. But that's true, correct?

12 A. That is true.

13 Q. Okay. And that's also the
14 time in which you reviewed, if at all,
15 the materials involved in this case --

16 A. Uh-huh.

17 Q. -- separate from the survey
18 responses?

19 A. Uh-huh.

20 Q. Is that correct?

21 A. Correct. Uh-huh.

22 Q. Where did you get the
23 information for the background section in
24 your report?

1 A. I had asked Mr. Ceryes to
2 send me a letter with the facts of the
3 case. I had the Complaint and I had --
4 at the time I had two depositions. I
5 don't even think I had time to review the
6 second set of those depositions. So I
7 think it was the first set of depositions
8 for the two plaintiffs and I had also one
9 deposition from somebody associated with
10 ECFMG that I perused.

11 Q. So it looks to me like your
12 counsel has indicated to us that you got
13 deposition transcripts for plaintiffs
14 Evans, Powell -- Evans and Powell. Were
15 those the two plaintiffs whose
16 depositions you reviewed?

17 A. I brought everything with
18 me, so I can check. I don't remember --

19 Q. Great.

20 A. -- their names.

21 Q. Yeah, let's take a look.

22 A. Evans, Powell and Mr. Kelly.

23 Q. Great. Okay. And what else
24 do you have in that pile, just so I don't

1 lose track of it?

2 A. I have your Exhibit 3.

3 Q. Yeah. So you can put that
4 aside. But then you have a copy of your
5 report, it looks like.

6 A. I have your Exhibit 2.

7 Q. Yep.

8 A. I have now a collated
9 version of the Complaint -- the -- the
10 statements.

11 Q. So just to make sure I
12 understand what that is. So those are
13 the statements that -- there was a
14 statement and then colon section on the
15 questionnaire that people could chose to
16 write in a statement. So is this just a
17 document pulling together each of the
18 sections from each of those?

19 A. All of the --

20 Q. If there was one?

21 A. Yes. All of the decided 300
22 individual comments would not be suitable
23 to bring today. And I have the notice of
24 deposition.

1 Q. Great.

2 A. I should have printed it
3 out, but I don't have it here.

4 Q. That's okay. What is STAT
5 News, S-T-A-T News?

6 A. Did I cite that as a source?

7 Q. Yeah, you said Akoda has
8 claimed he attended medical school in
9 Nigeria, although STAT News was unable to
10 verify this claim.

11 A. I don't recall, but when Mr.
12 Ceryes called me, I probably ran a search
13 on Google of the name "Akoda" and
14 probably was something on a website
15 someplace.

16 Q. So in addition to the
17 materials considered here, the facts
18 provided to you from counsel, you also
19 googled Dr. Akoda?

20 A. Yes.

21 Q. What else did you find about
22 Dr. Akoda other than the STAT News --

23 A. I don't believe I had much
24 time to search very much. I just wanted

1 to see kind of what was out there.

2 Q. And what was out there?

3 What did you see?

4 A. I don't even remember. If I
5 cited it, that's because I saw it and
6 scribbled something down and included it
7 in here, but that...

8 Q. Is STAT News a news source
9 that you refer to in checking out other
10 physicians in your usual practice?

11 A. I don't usually check out
12 other physicians, but if I get a case, I
13 sometimes will do a quick search.
14 Usually I spend more time with it. In
15 this case, I had to get on to the task at
16 hand. So I'm surprised I even included
17 it in here. So -- I don't even remember
18 doing that, but...

19 Q. Okay. It's possible you
20 weren't the one who wrote that?

21 A. No, it's possible I did, but
22 I just don't remember.

23 Q. Okay.

24 A. There was so much

1 information in a very short time. It was
2 a very crazy time.

3 Q. Well, that's what I'm trying
4 to understand, how you got this
5 background section together in that short
6 of time and on the limited sources that
7 you had?

8 A. I relied heavily on Mr.
9 Ceryes's letter and the Complaint.

10 Q. Okay.

11 A. I would say the Complaint
12 probably the most -- most of all.

13 MR. CERYES: Just for the
14 record, it's Ceryes, like World
15 Series.

16 THE WITNESS: I'm sorry.

17 MR. CERYES: That's okay.

18 Just in case we're going to use my
19 name a lot more, I want to get it
20 right.

21 BY MS. McENROE:

22 Q. Okay. So looking in the
23 background section on page 2. Towards
24 the bottom there's a paragraph that

1 starts "with his ECFMG certification in
2 hand."

3 Do you see that?

4 A. Uh-huh.

5 Q. Towards the end there's a
6 sentence that starts "later that year."
7 It's about three lines up from the bottom
8 of that paragraph.

9 Do you see where I am?

10 A. Yes.

11 Q. It says, "Later that year,
12 using the name Charles John Nosa Akoda, a
13 falsified Social Security number, a fake
14 permanent residence card, and a fake
15 Nigerian passport, he applied for and
16 received a Maryland medical license."

17 Do you see that?

18 A. Yes.

19 Q. Do you know what name was on
20 Dr. Akoda's ECFMG certificate?

21 A. No.

22 Q. Are you aware of whether the
23 plaintiffs in this case have filed any
24 other lawsuits stemming out of

1 certain way when they learned about
2 Dr. Akoda's history?

3 A. Yes, each response was
4 different. Each and every response was
5 different.

6 Q. What do you understand the
7 purpose of your report to be in this
8 lawsuit?

9 A. My report was simply to give
10 information to the plaintiffs' attorneys
11 about what the women reported.

12 Q. Okay. Were you trying to
13 give a set of data from which any other
14 conclusions could be drawn, to
15 extrapolate to another population of
16 patients, for example?

17 A. I don't think I understand
18 the question.

19 Q. So what I mean by that is,
20 so of the population that was given the
21 survey, about half responded, correct?

22 A. Uh-huh. Yes. Uh-huh.

23 Q. Was it your intention to use
24 the outcome of the results from the half

1 that responded to be statistically
2 significant for the half that did not
3 respond or for those who may have been
4 treated or examined by Dr. Akoda, but did
5 not receive the survey?

6 MR. CERYES: Objection.

7 Form and foundation.

8 You can answer.

17 BY MS. MCENROE:

18 Q. Do you think that there's
19 anything at all meaningful to the fact
20 that half of the women didn't choose to
21 respond?

22 A. No, we had a very short
23 turnaround time. Extremely short
24 turnaround time.

1 Q. And so you think it's just a
2 matter of convenience. It's not a matter
3 of that they may have just chosen not to
4 respond?

5 A. Oh, well, that was certainly
6 a good part of it. We had a remarkable
7 response rate given the women were not
8 even given a week to respond.

9 Q. On what basis do you say
10 that you got a remarkable response rate?

11 A. Because people are busy and
12 this was an unexpected intrusion into
13 their lives and their daily schedules.

14 Q. Do you have a sense for how
15 quickly or frequently plaintiffs in
16 lawsuits tend to respond to requests from
17 their counsel?

18 A. I know in other cases that
19 I've done that a week would not have been
20 adequate time.

21 Q. Have you gotten responses
22 since September 23rd?

23 A. I don't know.

24 Q. Have you asked?

1 A. No, we decided to keep it
2 open, but I did not check.

3 Q. Do you know if anyone else
4 checked?

5 A. I don't know.

6 Q. So was it your intention to
7 use the outcome of this questionnaire or
8 this survey to help diagnose any
9 individual plaintiff?

10 A. No.

11 Q. Is it your intention for the
12 outcome of this questionnaire or survey
13 to help diagnose the plaintiff class as a
14 whole?

15 A. Not to present psychiatric
16 diagnoses, no.

17 Q. Okay. At one point in your
18 report you say, "forensic psychiatric
19 consultation was requested." What do you
20 mean by "forensic psychiatric
21 consultation" in that -- in that --

22 A. Sure.

23 Q. -- usage?

24 A. Well, it's a consultation

1 because they have asked my -- for my
2 input in the matter. It's psychiatric
3 because it's addressing emotional
4 damages, and as a psychiatrist I have
5 some experience with listening to people
6 and understanding what their internal
7 experience of an action might have been,
8 and it's forensic because it pertains to
9 the court and matters related to
10 questions that can appear in court.

11 Q. I see. Okay. At one point,
12 you call your responses -- strike that.

13 At one point you call your
14 analysis provisional. Have you done any
15 non-provisional analysis since then?

16 A. No.

17 Q. Do you intend to?

18 A. Only if asked.

19 Q. Have you written any other
20 expert report in this case other than --
21 and I'm not talking about drafts of, but
22 any other reports other than what's been
23 marked as Exhibit 3?

24 A. No.

1 Aggrieved is a funny word. It's more
2 like a complaint as opposed to damage.

3 Q. So you think that through
4 your questionnaire you've proven to
5 yourself at least that there were
6 specific damages to particular patients
7 in this case?

8 A. I do believe that, yes.

9 Q. Having not spoken to any of
10 them?

11 A. I do believe that, yes.

12 Q. What do you believe your
13 opinions to be through this expert
14 report?

15 MR. CERYES: Objection.

16 Breadth of the question.

17 You can answer.

18 THE WITNESS: My opinion is
19 that it's not good for women to
20 find out that their doctor may not
21 have gone to medical school or
22 have, in fact, been a doctor as
23 they perceive credentialing to
24 imply.

1 And in this particular case,
2 it was additional affirmation for
3 the women that the behaviors he
4 exhibited in the office with them,
5 in the hospital with them were
6 abusive, not just atypical.

7 BY MS. McENROE:

8 Q. What do you mean by that
9 second statement?

10 A. That some of the comments he
11 made, some of the ways he put his hands
12 on them and in them were wrong and not
13 just -- not just a cultural difference or
14 a moment in time, but that they were --
15 they were related to something bigger.

16 Q. So that's an opinion you're
17 offering in this case?

18 A. Yes. Uh-huh.

19 Q. Having not actually spoken
20 to any of the individual plaintiffs?

21 A. Correct.

22 Q. Having not examined their
23 medical records?

24 A. Correct.

1 Q. Having not spoken to
2 Dr. Akoda?

3 A. Correct.

4 Q. Having not observed
5 Dr. Akoda in practice?

6 A. Yes, that's correct.

7 Q. Okay. And so you said the
8 opinion you're offering in this case --
9 one of the opinions you're offering in
10 this case is that it's not good for women
11 to find out that their doctor did not go
12 to medical school or that he was not
13 really a doctor. If it turns out that
14 Dr. Akoda really was a doctor --

15 A. Uh-huh.

16 Q. -- but that he had committed
17 Social Security fraud --

18 A. Uh-huh.

19 Q. -- but that the plaintiffs
20 were led to believe that he was not
21 really a doctor --

22 A. Uh-huh.

23 Q. -- wouldn't that lie to them
24 about him not really having been a doctor

1 be what actually caused them the harm?

2 MR. CERYES: Objection.

3 Form and foundation.

4 THE WITNESS: Well, I would
5 have to say the question was a
6 little bit convoluted for me, so
7 if you ask it in a simpler way for
8 my brain, that I would probably be
9 happy to answer.

10 BY MS. McENROE:

11 Q. Sure. So you had said that
12 one of your opinions is that it's not
13 good for women to find out that their
14 doctor basically was not a doctor.

15 A. Uh-huh. Uh-huh.

16 Q. Is that correct?

17 A. Yes, that's correct.

18 Q. If Dr. Akoda really was a
19 doctor --

20 A. Uh-huh.

21 Q. Correct? I'm making sure
22 you understand what I'm saying.

23 A. I'm following you.

24 Q. Okay. If it turns out that

1 substance abuse or Internet
2 addiction or other things. I will
3 pull a questionnaire relating to
4 that. Sometimes I'll use a
5 questionnaire about autism
6 spectrum symptoms. So -- same for
7 OCD. So I have a wide variety of
8 questionnaires in my office that
9 after I am finished interviewing
10 or sometimes in the midst of it, I
11 will give them a questionnaire. I
12 do not administer psychological
13 testing. That is not my domain.
14 I'm not a psychologist. I haven't
15 been trained to do that. So I use
16 forms that have been developed,
17 validated, widely accepted for the
18 most part, and I find them to be
19 helpful and even -- even the ones
20 that -- I have also written out
21 some -- some questions that I use
22 routinely. I guess you would call
23 them a questionnaire. They're
24 projective questions that I do

1 administer routinely that is not
2 self-administered. I will usually
3 ask the questions.

4 BY MS. McENROE:

5 Q. In an interview format?

6 A. Uh-huh.

7 Q. That's a yes?

8 A. That's -- sorry. That's a
9 yes.

10 Q. You mentioned that you use
11 some questionnaires or surveys that have
12 been validated or widely accepted. What
13 do you mean by that?

14 A. They are typically
15 questionnaires that are not new. They
16 are published in peer reviewed journals
17 and sort of the standard forms that can
18 augment my clinical interview.

19 Q. Have you ever published a
20 questionnaire or a survey in a peer
21 reviewed publication?

22 A. You know, I -- I might have
23 thought no, but I recently received some
24 requests for questionnaires I had

1 developed and I had to notify the
2 individual that I no longer have access
3 to them myself. They related to
4 decision-making and somebody from South
5 America wrote to me about an
6 autism-related questionnaire with blind
7 individuals.

8 Q. Right. But -- so my --

9 A. So I guess I did develop
10 some questionnaires and they were
11 published in peer reviewed journals, yes.

12 Q. But the questionnaires
13 themselves were published?

14 A. Yes.

15 Q. Not just the --

16 A. Well, you know, it's funny.
17 The questionnaires were not included,
18 they never are in -- well, they rarely
19 are because very often people want to
20 sell their questionnaires.

21 Q. So what I'm trying to
22 understand is when you said that you used
23 validated and widely accepted
24 questionnaires, what that means. And you

1 said that they're in published --

2 A. Uh-huh.

3 Q. -- they're often older,

4 they've been used a lot --

5 A. Uh-huh, uh-huh.

6 Q. And they're in publications?

7 A. Right.

8 Q. So presumably you would have
9 access to those questionnaires if you're
10 using them?

11 A. Yes, you buy them.

12 Q. You buy them. I see.

13 A. You buy them.

14 Q. So you buy them from the
15 authors or you buy them from the
16 publication?

17 A. You buy them from a company
18 that publishes them.

19 Q. Okay. Are any of your
20 questionnaires or surveys that you've
21 prepared for sale?

22 A. No. Uh-uh.

23 Q. Is the questionnaire or
24 survey you used in this case validated?

1 A. No.

2 Q. Is it widely accepted?

3 A. It's individually designed
4 for this project.

5 Q. Did you do any pretesting?

6 A. No. Pretesting in this
7 brief sense, that both Lisa and I ran
8 through the questionnaire as a pretest to
9 see how long it would take to complete.

10 Q. So you -- you and Lisa ran
11 through the questionnaire for time?

12 A. Uh-huh. Yes.

13 Q. Length?

14 A. Uh-huh.

15 Q. Okay. Did you do any other
16 pretesting on the content or the tone of
17 the questions or the order of the
18 questions, anything like that?

19 A. No.

20 Q. I think we established
21 earlier, but you've never met Dr. Akoda,
22 correct?

23 A. Correct.

24 Q. And you've never spoken with

1 him?

2 A. Correct.

3 Q. You've never treated him?

4 A. Correct.

5 Q. And you've never diagnosed
6 him with anything?

7 A. Correct.

8 Q. And you've never been
9 treated by him?

10 A. Correct.

11 Q. And did you consult with an
12 OB/GYN in any way in preparing this
13 questionnaire and this survey?

14 A. No.

15 Q. Do you routinely in your
16 professional experiences work with
17 OB/GYNs --

18 A. No.

19 Q. -- for any purpose?

20 Okay. Aside from whether or
21 not you are a patient, which I'm not
22 asking, do you interact with OB/GYNs
23 otherwise?

24 A. I think you addressed the --

1 A. Yes.

2 Q. And 271 recipients did not
3 return the questionnaire at all, correct?

4 A. Correct.

5 Q. Okay. At least before
6 September 23rd?

7 A. Correct.

8 Q. Okay. And so I think you
9 had mentioned earlier that you think you
10 could use the responses from the 306 to
11 extrapolate to the 271; is that correct?

12 A. Extrapolate is a funny word.
13 What did you mean by "extrapolate."

14 Q. So to tell us anything
15 meaningful about the population that did
16 not respond.

17 A. I do think it would tell us
18 something meaningful, yes.

19 Q. What do you think it would
20 tell us?

21 A. That there are some women in
22 that group that also may have experienced
23 some distress around Dr. -- around
24 Akoda's fraudulent claims of his

1 identity.

2 Q. But not necessarily all of
3 them, correct?

4 A. Absolutely not, yeah.

5 Q. And so if I invited, as a
6 hypothetical, 100 relatives to a family
7 reunion and only 75 showed up, do you
8 think I could use the feelings or
9 experiences of those 75 about whether
10 they wanted to show up to tell me
11 anything about the 25 that chose not to
12 come?

13 MR. CERYES: Objection.

14 Form and foundation.

15 THE WITNESS: I think you'd
16 probably do better asking a
17 polling researcher that question.

18 BY MS. McENROE:

19 Q. And you're not a polling
20 researcher, correct?

21 A. That's correct. I'm a
22 psychiatrist.

23 Q. And you didn't conduct IMEs
24 in this case, correct?

1 A. Correct.

2 Q. So I want to make sure I
3 understand the summary statements we've
4 talked about a couple times, because in
5 your report you mention that summary
6 statements were offered by 131 women,
7 right?

8 A. I thought it was a little
9 bit more, but maybe not.

10 Q. So it's at page 4, if my
11 notes are right. So there's a big
12 paragraph two paragraphs above where it
13 says "results" on page 4 and about in the
14 middle it says, summary statements were
15 offered by 131 women.

16 A. Ah, okay. I see it, yes.

17 Q. Is that correct?

18 A. Yes.

19 Q. And are those the narratives
20 you were talking about earlier?

21 A. Yes.

22 Q. And so that's where in the
23 report there was an option to write in a
24 free text box after a statement colon?

1 A. Correct.

2 Q. And there were not separate
3 summary statements, right? There weren't
4 other documents submitted? Those were
5 the summary statements, the ones that
6 came in --

7 A. Yes.

8 Q. -- the responses?

9 Okay. The only difference
10 from what you had had in your pile was
11 that you compiled those from each of the
12 individual reports or somebody compiled
13 those from each of the individual --

14 A. Uh-huh.

15 Q. -- reports?

16 A. Yes.

17 Q. And who did that?

18 A. It was a combination of all
19 of us.

20 Q. Okay. When you say "all of
21 us," was it you, Lisa and Stephen?

22 A. Lisa and Stephen. We all
23 had our versions until we settled on that
24 one. And then the major feat was getting

1 it to print out.

2 Q. Are you a statistician?

3 A. No.

4 Q. On page 4 it also goes on to
5 say -- make sure I'm looking at the right
6 sentence -- right after where it said the
7 summary statements were offered by 131
8 women, in order to assess the aggregate
9 severity and distribution of potential
10 damages among the entire plaintiffs'
11 class, the response rate and sample size
12 would be more than adequate to provide
13 reasonable confidence intervals for the
14 percentages of plaintiffs in each of
15 several categories of damage severity,
16 but this exceeded the scope of this
17 report.

18 Did I read that correctly?

19 A. You did.

20 Q. What does that mean?

21 A. That means that had one
22 wanted to look at statistical
23 significance of the response rate --

24 Q. Yeah.

1 A. -- that it would have been
2 statistically significant; however, this
3 was not being conducted as a research
4 study. So it was beyond the scope of
5 this because we were not yet going to be
6 looking at the statistical significance.
7 I was mentioning that the response rate
8 was excellent, that we're pleased to have
9 that many women respond because it gave
10 us a good sense of what the general
11 experience might have been of all the
12 women, but that we were not going to be
13 conducting research yet about this
14 matter.

15 Q. So in your professional
16 experience, is it fair to say that you're
17 saying that a population made up of
18 individuals who both approached counsel
19 and then chose to fill out a survey would
20 be statistically relevant in some way to
21 a population also treated by Akoda who
22 neither approached counsel or decided to
23 complete the survey?

24 A. Possibly yes and possibly

1 better than previous pelvic exams
2 they had experienced. Right? And
3 10 percent said they were less
4 painful than other exams.

5 BY MS. McENROE:

6 Q. But again, is this a way of
7 suggesting to the respondents as they go
8 through that Dr. Akoda might have been
9 more rough, insensitive, had longer
10 exams, sexual talk and/or touch?

11 A. You know, if asking a
12 question is always perceived as
13 suggestive, then I would never ask
14 somebody if they have any suicidal or
15 homicidal ideation because they may never
16 give that answer unless I ask that
17 question. But if asking the question is
18 sort of the same as the whole debate
19 about should you talk to kids about --
20 about their sexuality. Well, when you
21 speak with a middle school child about
22 whether they've ever had sex or thought
23 about sex, is that suggestive to them
24 that, gee, maybe I should have sex? So,

1 you know, I guess I could be mute and not
2 ask any questions, but if I want to be
3 effective as a person trying to gather
4 information then I'm going to ask the
5 questions in a way that gives people
6 permission to explain and to say more.

7 Q. What about the difference in
8 length in the response options, do you
9 have any sense about -- in survey science
10 about how it influences respondents to
11 pick a certain response when that's the
12 longest one?

13 A. I'm sure you can find
14 experts to that -- that can speak more to
15 that.

16 Q. But you don't?

17 A. I don't --

18 Q. That's not something --

19 A. -- have experts in my
20 pocket, no.

21 Q. That's not something you
22 took into consideration when drafting
23 these responses?

24 A. I took into consideration

1 doing the job that I was asked to do, to
2 understand what these women's experiences
3 were in the presence of Dr. Akoda, who
4 may or may not, have been a doctor as
5 certified by your client.

6 Q. But without using survey
7 sciences?

8 MR. CERYES: Objection.

9 Form and foundation.

10 THE WITNESS: I'm sorry, I
11 think that the morning part of the
12 session I explained the background
13 that I had. I'm sure there are
14 many aspects to survey science and
15 marketing. That's not really the
16 domain of my training. My
17 training was in ethnography,
18 microethnography, qualitative and
19 quantitative methodologies.

20 BY MS. McENROE:

21 Q. Okay. And for 3c, you ask
22 about having a nurse or a chaperone in
23 the room during pelvic examinations, and
24 I think this morning you referenced that

1 in the practice typically you would
2 expect that there would be a chaperone in
3 the room for all gynecological care on
4 what basis?

5 A. In recent years that has
6 been the practice.

7 Q. Okay.

8 A. Now, you may have a
9 different experience if you have a very
10 deep and abiding relationship with your
11 practitioner, but most physicians
12 providing gynecologic care now will do
13 that for their own liability and
14 protection.

15 Q. And on what basis do you say
16 that?

17 A. On the basis of being a
18 physician and being at the University of
19 Pennsylvania communicating with my
20 colleagues about practice.

21 Q. Who have you talked to about
22 specifically having chaperones in the
23 room during pelvic examinations?

24 A. Oh, I have a number of

1 answered.

2 THE WITNESS: From reading
3 the newspaper and from common
4 knowledge that that is a standard
5 of care among American
6 obstetrics-gynecologists.

7 BY MS. McENROE:

8 Q. For question 4, 4a, you had
9 asked, did you think that Dr. Akoda asked
10 you to come in for checkups more often
11 than needed.

12 Why did you ask that
13 question?

14 A. That would suggest that he
15 was seeking contact with particular
16 patients for his own gratification rather
17 than for their medical need.

18 Q. And you think that -- or
19 strike that.

20 You drafted this for a
21 second or third grade reading level, you
22 said?

23 A. Uh-huh.

24 Q. That's a yes?

1 A. Yes. Sorry.

2 Q. And you're now asking them,
3 the respondents to make a determination
4 of whether they think that the requested
5 checkups were more frequent than would be
6 medically necessary?

7 A. Yes. Uh-huh.

8 Q. Okay. For 4c, that's the
9 question, pelvic exams are never fun, but
10 looking back do you think his exams were
11 more or less painful than other pelvic
12 exams you've had with other doctors.

13 There's no I don't know or
14 remember option there. Why not?

15 A. Probably were trying to keep
16 this to be a short survey and all the I
17 don't know or remembers or -- add space
18 and time to read. But there was a more,
19 there was a less and there was a -- I
20 don't know what the no is actually. Do
21 you think he was more or less painful --
22 I don't even know what the no is. That's
23 just probably an error.

24 Q. So maybe that was intended

1 to be I don't know or remember?

2 A. I don't remember actually
3 and I -- and I don't know. It may have
4 been at 2:00 in the morning.

5 Q. So you think you prepared
6 this at 2 o'clock in the morning?

7 A. Very likely.

8 Q. Okay. And what review or
9 process was there before this went live
10 in terms of the content?

11 A. I'm sorry, you want to
12 clarify that question, please.

13 Q. Yeah, the questionnaire --

14 A. Yeah.

15 Q. -- what review or process
16 was there to verify that the questions
17 were what you meant to be asking before
18 it went live?

19 A. I read them through a few
20 times and Lisa Bain read them through a
21 few times.

22 Q. Anybody else?

23 A. Probably Mr. Ceryes also or
24 his associate.

1 Q. For 4e, did you ever
2 consider changing doctors, yes, no, I
3 don't know or remember.

4 I didn't see the data
5 reported on that in your report. Do you
6 remember how that came out?

7 A. No, there were lots of
8 things we did not report on. Just not
9 enough time. But you have the -- the raw
10 data, so you can calculate that.

11 Q. Well, I have the raw
12 reports. I think you said you had it
13 more in a tabulated data form that
14 Stephen could get for you as you needed
15 it.

16 A. What we asked of him. We
17 did not ask that of him.

18 Q. Okay. Why not?

19 A. Probably a limitation of
20 time.

21 Q. So in question 5b the
22 question is, how did you feel when you
23 heard about the charges against
24 Dr. Akoda? Check all that apply. And

1 A. I meant emotional
2 distress --

3 MR. CERYES: Objection.

4 Form and foundation.

5 THE WITNESS -- as a
6 layperson correlate of not -- not
7 settling well, not being
8 comfortable, not being happy, not
9 being satisfied, not feeling good.

10 BY MS. McENROE:

11 Q. Do you have any
12 understanding of whether there's a legal
13 meaning to the term "emotional distress"?

14 A. There probably is.

15 Q. Were you intending to use
16 this in that way?

17 A. No, I was not. I'm not
18 sure. I'm not a lawyer.

19 MR. CERYES: Objection.

20 Form and foundation.

21 THE WITNESS: And that's not
22 my intention.

23 BY MS. McENROE:

24 Q. So you're meaning emotional

1 distress here to mean that in not sort of
2 a formal term, but in more of a
3 layperson's type of language --

4 A. Correct.

5 Q. -- is that what you mean?

6 So let's turn real quick --
7 you still have that on your lap.

8 A. I do. Uh-huh.

9 Q. Let's -- we're going to take
10 a look at -- I think it was Exhibit 6,
11 which is the collection of survey
12 responses.

13 A. Yes.

14 Q. And we put Bates numbers,
15 like I mentioned, at the bottom.

16 A. Okay.

17 Q. So it might be easiest if I
18 use those.

19 A. Sure.

20 Q. We're going to flip ahead to
21 page 185.

22 A. Okay.

23 Q. Let me get there. One
24 second. Okay. So let's take a look --

1 this is the first of the questionnaires
2 that we're really going to look at for a
3 minute. I'm only going to point to a
4 couple of particular responses because
5 I'm going to get back the questionnaire
6 before we come back to some more specific
7 responses. But I wanted to look -- we
8 were just talking about 6a and it relates
9 to 6b. So I want to take a look at this
10 respondent's responses to 6a and 6b. So
11 6a is, did you experience emotional
12 distress as a result of Dr. Akoda's
13 conduct or as a result of learning that
14 he might not be a licensed doctor or that
15 his name and papers were not real. And
16 this respondent said no. So they didn't
17 experience emotional distress from that.
18 And then 6b, do you still experience
19 emotional distress as a result of
20 Dr. Akoda's conduct or as a result of
21 learning that he might not be a licensed
22 doctor or that his name and papers were
23 not real, and the respondent said yes.

24 How do you reconcile those

1 two answers?

2 A. Yeah. It's -- it's
3 interesting. This is a fairly benign
4 response. This person was pretty pleased
5 with the care that she received with
6 Dr. Akoda. She thought the pelvic exams
7 were fine, less painful. Her daughter
8 saw him. But she noted that she feels he
9 betrayed her trust and has led her to
10 change her practice about how often she
11 visits an OB/GYN and it has led her not
12 to trust doctors. She is very clear it
13 hasn't affected other parts of her life,
14 although she says it's a -- still has a
15 pain in her stomach, which may or may not
16 be related, and that is the sum totality
17 of what she reports, not particularly --

18 Q. Right.

19 A. -- excessive.

20 Q. So that --

21 A. This is a woman --

22 Q. -- wasn't my question, Dr.

23 Steinberg.

24 So 6a is no and it instructs

1 if you say no to move on to 6c, yet she
2 answered yes for 6b. So I'm just trying
3 to understand as a survey design
4 standpoint, she was able to answer a
5 question she was supposed to have skipped
6 and then they give contradictory
7 responses, and I just wanted to
8 understand your --

9 A. Right.

10 Q. -- perspective on that from
11 a survey design perspective?

12 A. My -- my thought is, and as
13 I'm looking at this right now, is that
14 this exemplifies the complex nature of
15 emotions and how a person can have
16 multiple and contradictory experiences of
17 the same thing. Here's somebody who was
18 really okay with Dr. Akoda and yet she
19 was shocked to find out about this. It
20 betrayed her trust and it altered her
21 practice. So overall her distress is
22 limited to the sort of cognitive
23 dissonance of this person that she liked,
24 that she valued, that she trusted and

1 then this information that she couldn't
2 quite grapple with. So in two questions,
3 one right next to the other, you see the
4 contradictory nature of her emotions
5 about this.

6 Q. But that's a lot to take
7 from this, knowing this yes. Right? I
8 mean, she could have either made a
9 mistake, she could have not understood
10 the questions or could have just been
11 that when she hit no and it meant to skip
12 her along to the next question, the
13 design of the survey was just not robust
14 enough to direct her in that way. Right?
15 She clearly saw 6b after answering 6a.

16 A. Do you have a question for
17 me?

18 Q. I'm asking you. So isn't
19 that true? I mean, she saw 6b then
20 clearly after she saw 6a, correct?

21 A. You asked me what I took
22 from this.

23 Q. Yeah.

24 A. I'm explaining to you what I

1 took from the contradictory nature of her
2 responses on those two because I'm not
3 looking at exclusively at those two
4 questions. I'm looking at the rest of
5 the responses that she had and I'm seeing
6 other information that fills it out a
7 little built more. Kind of like if
8 you're coloring a page, there's an
9 outline and then there's a color. So I
10 get the color from her responses. She
11 really did not have terrible experiences
12 with him. She liked him. She trusted
13 him. And she sent her daughter to him.
14 And she thought his pelvics were fine.
15 There is no sexually inappropriate
16 conduct that he had that she experienced.
17 And yet she felt that he betrayed her
18 trust. Those are her words. That was
19 not a choice. She didn't check "other"
20 and leave it blank. She explained what
21 she felt. She colored in the lines as
22 she did in 7. So while that may -- in
23 and of itself, those two questions might
24 be confusing to you as you look at them.

1 I have a little more information from
2 looking at her response to 7a and 7b and
3 5c. That explains, yeah, she -- she was
4 really not -- she didn't really
5 experience emotional distress, but
6 then -- then she learned that that this
7 stuff was in the news and she heard about
8 it. And so still, it has -- there's that
9 "still" word. Do you still experience.
10 And when she saw the "still," is like
11 yes, I don't go to doctors as often, I
12 don't go to OB/GYNs as often. The
13 difference between those two questions is
14 one of immediate. When you heard about
15 it, did you have emotional distress?
16 Were you -- were you -- she might have
17 read emotional distress as like trauma.
18 Did you experience trauma. This woman is
19 not really decrying trauma. What she's
20 explaining is that it's affected me
21 still. I -- I don't use practice --
22 practitioners in the same way that I did
23 before. Those are her words. I'm not
24 putting words into her mouth in this.

1 And you asked me what I take from those
2 two questions and that is my answer.

3 Q. So with 6a, when you said no
4 and then in itals, if you answered no to
5 question 6a, skip to question 6c, you
6 didn't really mean it. You thought they
7 might have cognitive dissonance and
8 answer 6b.

9 A. No, I thought that she would
10 skip it, but she didn't.

11 Q. Okay. So it wasn't set up
12 to skip it for her?

13 A. Apparently not.

14 Q. Okay.

15 A. That particular one was not.
16 Sometimes we did, sometimes we just
17 overlooked it. But it is interesting how
18 she responded.

19 Q. So question 6h.

20 A. Yes.

21 Q. And after that then 6i
22 through 6s.

23 A. Yes.

24 Q. We don't need to go through

1 each of them in detail, but starting with
2 6i, these are not questions tied to
3 experiences with Dr. Akoda in particular,
4 as written on their face. Right? So,
5 for example, 6i, have you experienced
6 mood changes or depression? Then, yes,
7 only in the past month; yes, only prior
8 to the past month; yes, both in the past
9 month and prior to the past month; and
10 no.

11 Do you see that?

12 A. Yes. Uh-huh.

13 Q. And then the rest of those
14 until 6s are the same, right? They're
15 asking all sorts of questions.

16 A. Uh-huh.

17 Q. But they're not tied
18 specifically to experiences with
19 Dr. Akoda?

20 A. They're asking if they've
21 had these experiences, correct.

22 Q. Right. So it's true that
23 the responses there on those, this could
24 have all different other sorts of causes.